

REMARKS

This amendment responds to the Office Action mailed July 8, 2008 (hereafter "Office Action"). Claims 1, 40-46, and 109-124 are currently subject to examination in the application. Claims 2-39 and 47-99 are currently withdrawn. Claims 1, 33, 40, 109, and 117 are amended herewith. No claims have been canceled and no new claims have been added.

Pursuant to 37 C.F.R. § 1.111, applicant requests reconsideration of the claims and allowance of the application.

Information Disclosure Statements

As an initial matter, applicant thanks the Examiner for the consideration given to the Information Disclosure Statements (IDSs) dated February 5, 2005; October 9, 2006; December 18, 2006; as well as the IDSs dated January 4, 2008; April 11, 2008; and June 20, 2008. An additional IDS is submitted herewith.

Patentability of Claims 1, 40-46, and 109-124 Over Korhammer

The Office Action rejected Claims 1, 40-46, and 109-124 under 35 U.S.C. § 102(e) as allegedly being anticipated by Korhammer et al. (U.S. 6,278,982) (hereafter "Korhammer"). Applicant has carefully considered the Office Action, especially the Examiner's comments made in response to applicant's remarks that were presented in reply to a prior Office Action. While applicant continues to believe that Claims 1, 109, and 117 as previously presented are patentable over Korhammer, applicant desires to advance the prosecution of the present application and has amended Claims 1, 109, and 117 to clarify certain aspects of the claims. These amendments are not considered to be narrowing the scope of the claims.

Amended Claim 1 reads as follows:

1. A method of facilitating trading, comprising:
executing, during an overlapping time interval on a computer, at least two market processes having respective market methodologies, wherein the at least two market processes are computer software processes executing on the same computer, and wherein each of the market processes provides a distinct and separate market that is configured to

match and execute orders received from buying and selling trading processes, and

automatically enabling at least a buying trading process and a selling trading process to trade with each other via the market processes according to the respective market methodologies, wherein the buying and selling trading processes are computer software processes that are executing on the same computer as the market processes.

Applicant respectfully submits that Korhammer fails to teach or suggest a method of facilitating trading as claimed.

At best, Korhammer teaches a securities trading system that receives trading data from various electronic communication networks (ECNs) and electronic exchanges, and aggregates the data for display to a customer or trader at a terminal. See, e.g., Figure 3 of Korhammer. According to Korhammer, a customer is allegedly able to use a single terminal to view, analyze, and conduct securities transactions with two or more ECNs, alone or in combination with one or more electronic exchanges. See, e.g., the Abstract of Korhammer. A consolidating computer system ("CCS") aggregates order book information from each participating ECN order book computer and electronic exchange. The combined information is displayed to the customer. See, e.g., Figure 2 of Korhammer.

In the Office Action (page 3), the Examiner "respectfully points out that Korhammer teaches a consolidating computer system (CCS)." Applicant respectfully submits that such teaching is not determinative of the patentability of the claims. To the extent the Examiner seeks to equate Korhammer's CCS with the "computer" claimed in Claim 1, applicant points out that at least two market processes, a buying trading process, and a selling trading process, all of which are computer software processes, are executing on the same computer. Each of the market processes "provides a distinct and separate market that is configured to match and execute orders received from the buying and selling trading processes." Furthermore, the buying and selling trading processes are able "to trade with each other via the market processes" that are "executing on the same computer." To the contrary, the CCS taught by Korhammer cannot be equated with

the computer claimed in Claim 1 as the CCS simply does not satisfy the elements recited in Claim 1.

The Office Action (page 3) alleges that Korhammer teaches "more than one market process." What is missing in Korhammer is a teaching that the market processes are "executing, during an overlapping time interval on a computer, . . . wherein the at least two market processes are computer software processes executing on the same computer," as claimed in Claim 1. Contrary to Claim 1, Korhammer teaches multiple different systems (ECNs and electronic exchanges) that are each separately executing on different computer systems using different protocols. Korhammer merely teaches a "consolidation system" (Col. 4, lines 13-14) that communicates with each of the different ECNs and exchanges according to their native protocols and consolidates the market information into a single display for a user.

On page 4 of the Office Action, the Examiner argues, "Therefore, different customers are able to access different market data, which requires the capability to execute during overlapping time periods. Also NASDAQ has its respective market methodologies, as does ECN 150, for example." Applicant respectfully submits that this argument is inapposite to the patentability of the claims. Korhammer's CCS only aggregates order book information that is received from different ECNs and electronic exchanges. The CCS neither manages the order books of the ECNs and electronic exchanges nor executes orders. Rather, the CCS is merely an intermediary for traders to receive data from the ECNs and electronic exchanges and to submit trader's orders to the ECNs and electronic exchanges.

Regarding the CCS, the Examiner further argues on page 4 of the Office Action, "Therefore, Korhammer is teaching an order server with an analytical engine that directs order placement to different markets." Such teaching, however, is not relevant to a *prima facie* rejection of the claims. The "different markets" (e.g., ECNs and electronic exchanges) are not executing on the CCS but rather are executing on separate computer systems. This is hardly equivalent to "executing, during an overlapping time interval on a computer, at least two market

processes . . . , wherein the at least two market processes are computer software processes executing on the same computer, and wherein each of the market processes provides a distinct and separate market that is configured to match and execute orders received from buying and selling trading processes," nor is it relevant to "automatically enabling at least a buying trading process and a selling trading process to trade with each other via the market processes . . . , wherein the buying and selling trading processes are computer software processes that are executing on the same computer as the market processes."

On page 5 of the Office Action, the Examiner points to Korhammer and alleges, "Therefore, Korhammer is not teaching execution on different system using different protocols but is teaching execution on a system that converts different protocols to a common protocol." It is unclear what the Examiner means by "execution" in this regard.

If the Examiner is referring to execution of orders (i.e., matching buying and selling orders and completing trades), the statement is incorrect because the execution of orders, according to Korhammer, does not occur at the CCS but rather at the various ECNs and electronic exchanges. The CCS is merely a go-between that routes orders from a customer or trader to an ECN or electronic exchange for execution. See, e.g., Col. 8, lines 39-46, of Korhammer.

If the Examiner is referring to execution of computer processes, namely, market processes and buying and selling trading processes as claimed, the statement is incorrect because it is plain in Korhammer that the ECNs, electronic exchanges, and the trading terminals are all executing separate from the CCS. This is shown both figuratively and operationally in Figures 2 and 3 of Korhammer and in the corresponding description provided by Korhammer. In no sense does Korhammer consider the ECNs, electronic exchanges, and the trading terminals as all executing on the same computer as claimed in the present application. Indeed, the systems on which the ECNs 50, 51, electronic exchanges 52, and the trader terminal 101 are executing are so

different that the CCS must employ multiple protocol converters 200, 201, 202, 207 to translate communications between the ECNs, electronic exchanges, and the trader terminal.

The Office Action (page 5) recites Korhammer's discussion of protocol converter 200 to 202 at Col. 7, lines 29-33, and alleges this protocol conversion "provides the ability to execute orders for at least two market processes." To be more precise, this protocol conversion enables the CCS to send orders for execution "on the appropriate ECN or electronic exchange." The orders are not executed on the CCS. Indeed, the markets provided by the ECNs and electronic exchanges are operating on different computer systems, separate from the CCS.

On page 6 of the Office Action, the Examiner adds, "As pointed out above, Korhammer provides an order server and analytical engine to break up an order and route it to a proper exchange, so a single order can be placed in different markets. Further, as pointed out above, CCS uses a common protocol. The Examiner respectfully maintains this is executing on the same platform at least two market processes." Applicant respectfully disagrees. The capacity of the CCS to route an order, or portion of an order, to an exchange, does not suggest that the exchange is executing on the same computer as the CCS. Furthermore, it is incorrect to equate the order server 211 and analytical engine 206 of Korhammer with "market processes" as claimed. The claims specifically define the market processes as each providing "a distinct and separate market that is configured to match and execute orders received from buying and selling trading processes." The order server and analytical engine of Korhammer do not satisfy these elements of the claims.

At the bottom of page 6, the Examiner recites Col. 8, lines 39-46, of Korhammer and alleges, "This teaches at least two trading processes, where an order is either a buy or sell. These can be traded on different markets." This portion of Korhammer, as repeated in the Office Action, refers to a "single order." The order may be routed entirely to one ECN or electronic exchange, or it may be routed in parts to different ECNs or electronic exchanges. But the order is still a single order for a single buy or sell side of a trade. This portion of Korhammer nowhere

suggests that the CCS enables "at least a buying trading process and a selling trading process to trade with each other via the market processes . . . , wherein the buying and selling trading processes are computer software processes that are executing on the same computer as the market processes," as claimed in Claim 1 of the present application.

Turning to page 7 of the Office Action, the Examiner quotes Korhammer at Col. 4, lines 22-28. However, even if each participating ECN order book computer, each participating electronic exchange, and the CCS form a "computer network," as suggested by Korhammer, it is incorrect to equate this computer network with the "computer" that is claimed in Claim 1. By executing on the same computer at least two market processes as well as buying and selling trading processes, as claimed in Claim 1, the complex communication and translation structures of Korhammer are not needed.

The various computer systems in Korhammer may have communication channels between them and thus form a "computer network," but that does not mean that the various computer systems constitute "a computer" as claimed in Claim 1.

As noted earlier, in reference to Figure 2 of Korhammer, it is readily observed that the ECNs 50, 51, 53, and 54 and the electronic exchange 52 are not executing on the CCS 100. The ECNs 50, 51, 53, and 54 and the electronic exchange 52 are executing on different computer systems as illustrated by separate dashed-line boxes. The ECNs 50, 51, 53, and 54 and the electronic exchange 52 may *communicate* with the CCS 100, as illustrated by the arrowed lines in Figure 2, but this does not constitute *executing* the ECNs 50, 51, 53, and 54 and the electronic exchange 52 on the CCS 100. Again, nowhere does Korhammer suggest "executing...at least two market processes" as well as "buying and selling trading processes...on the same computer."

To the extent the Examiner considers a process operating on the terminal 101 to be a "trading process" and the CCS 100 to be the claimed "computer," Korhammer nowhere describes the process of terminal 101 as executing on the CCS 100, much less "executing on the same

computer as the market processes." Indeed, the terminal 101 uses the CCS 100 as a intermediary to translate communications with the ECNs 50, 51, 53, and 54 and the electronic exchange 52.

Applicant submits that Korhammer fails to teach or suggest the elements recited in amended Claim 1 and therefore does not support a *prima facie* case of anticipation. Claim 1 should be allowed. Additionally, Claims 40-46 should be allowed, both for their dependence on Claim 1 and for the additional subject matter they recite. For example, with respect to Claim 45, the Office Action recites Korhammer at Col. 10, lines 6-8, where a customer specifies the number of shares it wishes to purchase and the price of the purchase. However, it is not clear at all how such disclosure applies to Claim 45, which recites the operational mode of a market process as "an in process mode in which the market process has priority over other market processes for executing a trade."

Claims 109 and 117 have been amended similar to Claim 1. For convenience of review, amended Claims 109 and 117 read as follows:

109. A system for facilitating trading, comprising:
at least one processing component in a single computer system on which multiple processes are executing, wherein the processing component is configured to execute, during an overlapping time interval on the same computer system, at least two market processes and a buying trading process and a selling trading process, wherein each of the market processes have respective market methodologies and provide distinct and separate markets that are configured to match and execute orders received from the buying and selling trading processes, wherein the buying and selling trading processes are able to trade with each other via the market processes according to the respective market methodologies, and wherein the buying and selling trading processes are each computer software processes executing on the single computer system.

117. A computer-accessible medium having executable instructions stored thereon for facilitating trading, wherein the instructions, when executed, cause a computer to:
execute, during an overlapping time interval, at least two market processes having respective market methodologies, wherein each of the market processes provides a distinct and separate market that is configured to match and execute orders received from buying and selling trading processes, and

execute at least a buying trading process and a selling trading process, wherein the buying and selling trading processes are able to trade with each other via the market processes according to the respective market methodologies, and wherein the buying and selling trading processes execute on the same computer as the market processes.

For reasons similar to those discussed above with respect to Claims 1 and 40-46, Claims 109-116 should be allowed. Korhammer neither teaches nor suggests a "system for facilitating trading, comprising" at least one processing component in a single computer system" that is configured as claimed in Claim 109.

Further, for reasons similar to those discussed above with respect to Claims 1 and 40-46, Claims 117-124 should also be allowed. Korhammer neither teaches nor suggest a "computer-accessible medium having executable instructions stored thereon for facilitating trading, wherein the instructions, when executed, cause a computer to" execute market processes and trading processes "on the same computer" as claimed in Claim 117.

Rejoinder of Withdrawn Claims

Lastly, in view of the patentability of Claims 1, 40-46, and 109-124, applicant requests rejoinder and allowance of withdrawn Claims 2-39 and 47-99.

CONCLUSION

For at least the reasons discussed above, applicant requests withdrawal of the claim rejections, rejoinder of the withdrawn claims, and issuance of a Notice of Allowance. Should the Examiner identify any matters needing resolution prior to allowance, the Examiner is invited to contact the undersigned counsel by telephone. Respectfully submitted,

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